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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,125	03/11/2004	Satoshi Kidooka	P24795	4667

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EXAMINER

KASZTEJNA, MATTHEW JOHN

ART UNIT	PAPER NUMBER
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3739

DATE MAILED: 02/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/797,125

Applicant(s)

KIDOOKA, SATOSHI

Examiner

Matthew J Kasztejna

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 061004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,066,102 to Townsend et al.

In regards to claim 1, Townsend et al. disclose a pincerlike instrument for an endoscope, comprising: a flexible sheath 14; a pair of limbs 306 and 308 provided at the fore-end of the flexible sheath, that open and close as a pincers, by remote operations from the base-end of the flexible sheath (see Col. 12, Line 63 – Col. 13, Line 13); and a water supply channel 630 that is formed inside the flexible sheath for ejecting water from the fore-end of the flexible sheath by supplying the water from the base-end of the flexible sheath; wherein a water ejection opening of the water supply channel is disposed at the base portion of the pair of limbs and between the two limbs, with the water ejection opening facing forward (see Fig. 16f).

In regards to claim 2, Townsend et al. disclose a pincerlike instrument for an endoscope, wherein the water ejection opening is positioned to be coaxial with the axis of the front-end section of the flexible sheath (see Fig. 16f).

In regards to claims 3-4, Townsend et al. disclose a pincerlike instrument for an endoscope, further comprising a pair of pivots 100 such that one pivot of the pair of pivots is arranged on one side of the axis and another pivot of the pair of pivots is

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arranged on another side of the axis, at the front-end section of the flexible sheath, wherein each of the limbs is separately rotatable about a respective pivot of the pair of pivots, and the water supply channel passes between the pair of pivots (see Col. 8, Lines 1-5 and Fig. 6).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S Patent No. 6,066,102 to Townsend et al. in view of U.S Patent No. 5,330,471 to Eggers.

In regards to claim 5, Townsend et al. disclose a pincerlike instrument for an endoscope but is silent with respect to wherein the limbs are insulated from each other and function as high-frequency current electrodes. Eggers teaches of an analogous endoscopic instrument having movable members comprising opposing jaws for simultaneously grasping and causing hemostasis of the tissue. The jaw members include shank portions forming opposing mating surfaces. A layer of insulating material is disposed on at least one of these mating surfaces so that electrically active portion of the members do not contact each other during operation of the instrument. (see Col. 4, Line 45 – Col. 5, Line 3). It would have been obvious to one skilled in the art the time the invention was made to include insulate the limbs in the apparatus of Townsend et al.

and have them function as high-frequency current electrodes so as to provide a safe means for hemostatically serving or manipulating tissue as taught by Eggers.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S Patent No. 5,810,876 to Kelleher, U.S Patent No. 6,129,683 to Sutton et al., U.S Patent Application Publication No. 2001/0025149 to Kobayashi et al., U.S Patent Application Publication No. 2001/0021859 to Kawai et al., U.S Patent Application Publication No. 2003/0216733 to McClurken et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J Kasztejna whose telephone number is (571) 272-6086. The examiner can normally be reached on Mon-Fri, 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJK

MK

2/16/05


BEVERLY M. FLANAGAN
PRIMARY EXAMINER